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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9339 of 2016

S.Babu

... Petitioner

vs.

1. Sub Registrar,
Office of the Joint II Sub Registrar,
Chengalpet.

2. M.Sundaram.

3. S.Rajendiran.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of declaration to declare the cancellation of settlement deed executed by 2nd respondent registered as document No.2258 of 2002 with the 1st respondent 's office and the subsequent settlement deed executed by 2nd respondent in favour of the 3rd respondent on 29.06.2012 vide document no.6869 of 2012 as null and void and further directing the 1st respondent to delete the entries in the book 1 which creates encumbrance over the property.

For Petitioner : M/s. S. Sundaresan

For Respondents: Mr.P.P.Purushothaman for R1
Government Advocate

: Mr. R.G.Annamalai for R2 & R3

O R D E R

The relief sought for in this writ petition is to declare the cancellation of settlement deed executed by the 2nd respondent registered as document No.2258 of 2002 with the 1st respondent's office and the subsequent settlement deed executed by 2nd respondent in favour of the 3rd respondent on 29.06.2012 vide document no.6869 of 2012 as null and void and further directing the 1st respondent to delete the entries in the registers.

2. The learned counsel appearing on behalf of the writ petitioner states that, the father of the writ petitioner Shri.M.Sundaram executed the settlement deed in favour of the writ petitioner on 28.08.2001 in document No.1956 of 2001 on the file of the Sub Registrar Office, Joint -II, Chengalpattu.



3. The learned counsel for the petitioner states that, the settlement deed executed by the father of the writ petitioner was canceled unilaterally by registering the cancellation deed on 05.08.2002. It is contended that, unilateral cancellation of the settlement deed is impermissible under the provisions of the Registration Act. It is also contended that on execution of the settlement deed in favour of the writ petitioner by his father, the title in respect of the property had been transferred in the name of the writ petitioner. Thus the 2nd respondent has no locus standi to execute any other further document in respect of the property which was already settled in favour of the writ petitioner.

4. The legal principles in this regard are also settled and orders are passed by this Court in W.P.No.15624 of 2014 dated 23.04.2018. The relevant paragraphs are extracted here under:-

"3.The grievances of the writ petitioner is that the second respondent without any right or authority, on 10.03.2014 under document No.2129 of 2014 and on 19.03.2014 under Document No.571 of 2014 canceled the said settlement deeds executed by the second respondent in the office of the first respondent, which is contrary to law and this Court has elaborately adjudicated the matter and decided such unilateral cancellation is null and void. In this regard, the learned counsel for the writ petitioner cited the judgment delivered in the case of P.A.G.Kumaran Vs. Inspector General of Registration, dated 31.07.2017 reported in 2017 (2) CWC 796. The relevant paragraph Nos.13 to 16 are extracted below:

"13. According to the learned counsel for the petitioner, it is not only based on the judgment of the Apex Court reported in 2014 (4) CTC 572 (SC) (cited supra) that this Court has rendered a finding with regard to the cancellation of settlement deed, in W.P.No.6230 and 6231 of 2011 (cited supra), but also referring to the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra) to show that when once the property is settled, it cannot be over-ruled or ignored that a unilateral cancellation at the instance of the person who has settled the property, can be cancelled, unless and otherwise it establishes fraud or against the public policy.

14. Though it has been vociferously contended by the learned counsel for the third respondent that the deed of cancellation can be done by the respondents 1 and 2 and in view of the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra), as could be seen from paragraphs quoted therein above, it



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cancellation of settlement deed, which is the subject matter of this Writ Petition, this Court expects that the said civil forum to decide the matter as expeditiously as possible, from the date of initiation of such suit, and the matter shall not be adjourned beyond seven working days at any point of time. The petitioner shall co-operate in the trial if such suit is filed."

5. In view of the judgement cited supra, the present writ petition in hand deserves to be considered. The cancellation of settlement deed executed by the 2nd respondent registered as document No.2258 of 2002 with the 1st respondent office and the subsequent settlement deed executed by the 2nd respondent in favour of the 3rd respondent on 29.06.2012 by document No.6869 of 2012 are quashed. The 1st respondent is directed to make necessary entries in all the registers. Writ petition stands allowed. There shall be no order as to costs.

pkn

Sd/-

Assistant Registrar(CS VI)

// True Copy//

Sub Assistant Registrar

To

1. Sub Registrar,
Office of the Joint II Sub Registrar,
Chengalpet.

+ 1 CC TO THE GOVT. PLEADER, SR 65820

+ 2 CCS TO MR.R.G.ANNAMALAI, ADVOCATE SR 65228

+ 1 CC TO MR.S.SUNDARESAN, ADVOCATE SR 65062

KR/5/10/18

W.P.No.9339 of 2016